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CLERK OF DISTRICT COURT
 DISTRICT OF NEVADA

BY _____ DEPUTY

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 7 UNITED STATES DISTRICT COURT
 8 DISTRICT OF NEVADA
 9

10 DARREN CHAKER-DELNERO,

11 Plaintiff,

12 vs.

13 BUTLER & HAILEY, a Texas professional
 corporation, S-G OWNER'S ASSOCIATION,
 14 a Texas corporation, PLANNED
 COMMUNITY MANAGEMENT, INC., a
 15 Texas Corporation, DOES I-V, inclusive and
 ROE Corporations VI-X, inclusive,

16 Defendants.
 17

CASE NO.:

CJ-5-06-0022

COMPLAINT &
 DEMAND FOR TRIAL BY JURY

EIGHT PERSON JURY DEMANDED

18 1. This is a claim for actual, statutory, multiple and exemplary damages
 19 brought by the named plaintiff, DARREN CHAKER-DELNERO (hereinafter referred to
 20 as "plaintiff" or "Chaker-Delnero"), for defendants' violations of the Fair Debt Collection
 21 Practices Act (hereinafter referred to as the "FDCPA"), 15 U.S.C. §1692, *et seq.*, and the
 22 Texas Debt Collection Act, Tex.Fin.Code § 392.001 *et seq.* (hereinafter "TDCA"), which
 23 expressly prohibits a debt collector from engaging in deceptive, unfair and
 24 unconscionable debt collection practices.

25 2. Jurisdiction of this Court is invoked under 15 U.S.C. §1692k(d), 28 U.S.C.
 26 §1337, and supplemental jurisdiction exists for the state law claims under 28 U.S.C. §
 27 1367. Venue in this District is proper because Plaintiff resides in Nevada and the
 28 conduct complained of occurred here. Specifically, Defendants reside in Texas and sent
 a facsimile transmission into Nevada that violates the FDCPA and the TDCA.

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3. Chaker-Delnero is a "consumer" as defined in the Act at 15 U.S.C. § 1692a(3) and Tex. Fin. Code Ann. § 392.3001(1) who may or may not have been obligated to pay money to a creditor.

4. Defendant, BUTLER & HAILEY (hereinafter referred to as "B&H", allegedly, is a professional corporation, organized and existing under the laws of the state of Texas, with its principal place of business at 1616 South Voss Road, Suite 500, Houston, Texas, 77057.

5. Defendant, S-G OWNER'S ASSOCIATION, (hereinafter referred to as "S-G OA"), allegedly is a corporation incorporated under the laws of Texas or licensed therein.

6. Defendant, PLANNED COMMUNITY MANAGEMENT, INC. (hereinafter referred to as "PCMI"), allegedly is a corporation incorporated under the laws of Texas or licensed therein.

7. Defendants regularly collect or attempt to collect consumer debts owed or due or asserted to be owed or due another.

8. S-G OA is a "debt collector" as defined by Tex. Fin. Code Ann. § 392.001(6).

9. PCMI is a "debt collector" as defined by Tex. Fin. Code Ann. § 392.001(6).

10. B&H is a "debt collector" as defined by 15 U.S.C. § 1692a(6) and Tex. Fin. Code Ann. § 392.001(6).

11. B&H is a "third-party debt collector" as defined by Tex. Fin. Code Ann. § 392.001(7).

12. The alleged debt was incurred by the plaintiff primarily for personal, family, or household purposes.

13. Defendants purported to be involved in collection efforts with regard to plaintiff's disputed debt to S-G OA within one year before the date of this action.

14. Plaintiff is unaware of the true names and legal capacities, whether individual, corporate, associate, or otherwise, of the Defendants DOES I-V and ROE Corporations VI-X, sued herein inclusive, and therefore sues Defendants by such fictitious names.

21. After receiving Plaintiff's letter disputing the debt and asking for validation, Defendants' collection efforts included harassing verbal and written communications that included, but were not limited to, false threats to throw Plaintiff in

1 jail if the alleged debt remained unpaid; misrepresentations as to the FDCPA's
 2 application to the Defendants, rude and coarse language the natural consequences of
 3 which is to abuse the Plaintiff and threats to contact third parties and neighbors
 4 regarding the alleged debt.

5 22. Defendants' collection efforts violated 15 U.S.C. §1692d, -e, -f, and/or -g.

6 **COUNT TWO**

7 23. Plaintiff repeats and realleges and incorporates by reference paragraphs
 8 one through twenty-two, inclusive, above.

9 24. Defendants violated the TDCA by:

- 10 (a) collecting or attempting to collect a charge incidental to the obligation
 11 without first demonstrating to the consumer that the charge is expressly
 12 authorized by an agreement creating the obligation, in violation of
 13 Tex.Fin.Code Ann. §392.303(a)(2);
- 14 (b) accusing falsely or threatening to accuse falsely a person of fraud or any
 15 other crime, in violation of Tex.Fin.Code Ann. §392.301(a)(2);
- 16 (c) representing or threatening to represent to any person other than the
 17 consumer that a consumer is wilfully refusing to pay a nondisputed
 18 consumer debt when the debt is in dispute and the consumer has notified
 19 in writing the debt collector of the dispute, in violation of Tex.Fin.Code
 20 Ann. §392.301(a)(3);
- 21 (d) threatening that the debtor will be arrested for nonpayment of a consumer
 22 debt without proper court proceedings, in violation of Tex.Fin.CodeAnn.
 23 §392.301(a)(5);
- 24 (e) threatening to file a charge, complaint, or criminal action against a debtor
 25 when the debtor has not violated a criminal law, in violation of
 26 Tex.Fin.CodeAnn. §392.301(a)(6);
- 27 (f) threatening that nonpayment of a consumer debt will result in the seizure,
 28 repossession, or sale of the person's property without proper court

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- proceedings, in violation of Tex.Fin.Code Ann. §392.301(a)(7);
- (g) threatening to take an action prohibited by law, in violation of Tex.Fin.Code Ann. §392.301(a)(8);
- (h) using profane or obscene language or language intended to abuse unreasonably the hearer or reader, in violation of Tex.Fin.Code Ann. §392.302(1);
- (i) placing telephone calls without disclosing the name of the individual making the call and with the intent to annoy, harass, or threaten a person at the called number, in violation of Tex.Fin.Code Ann. §392.302(2);
- (j) collecting or attempting to collect interest or a charge, fee, or expense incidental to the obligation unless the interest or incidental charge, fee, or expense is expressly authorized by the agreement creating the obligation or legally chargeable to the consumer, in violation of Tex.Fin.Code Ann. §392.303(a)(2);
- (k) failing to disclose, that the communication is from a debt collector, if the communication is a subsequent written or oral communication between the third-party debt collector and the alleged debtor, in violation of Tex.Fin.Code Ann. §392.304(a)(5)(B);
- (l) using a written communication that fails to indicate clearly the name of the debt collector and the debt collector's street address or post office box and telephone number if the written notice refers to a delinquent consumer debt, in violation of Tex.Fin.Code Ann. §392.304(a)(6);
- (m) misrepresenting the character, extent, or amount of a consumer debt, in violation of Tex.Fin.Code Ann. §392.304(a)(8);
- (n) representing that a consumer debt will definitely be increased by the addition of attorney's fees, investigation fees, service fees, or other charges if the award of the fees or charges is subject to judicial discretion, in violation of Tex.Fin.Code Ann. §392.304(a)(13);

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(o) using any other false representation or deceptive means to collect a debt or obtain information concerning a consumer, in violation of Tex.Fin.Code Ann. §392.304(a)(19);

(p) claiming that a debt is being collected by an attorney when it is not, in violation of Tex.Fin.Code Ann. §392.304(a)(17); and

(q) S-G OA used B&H as an independent debt collector at a time when S-G OA had actual knowledge that B&H repeatedly and/or continuously engaged in prohibited acts or practices in violation of Tex.Fin.Code Ann. §392.306.

25. Pursuant to Tex.Fin.Code Ann. § 392.404, the Defendants' violations of the TDCA also constitute a deceptive trade practice under Subchapter E, Chapter 17, Business & Commerce Code ("DTPA"), and is actionable under that subchapter.

26. Under Tex. Bus. & Com. Code Ann. § 17.50(b)(2), the Defendants' violations of the DTPA render them jointly and severally liable to Plaintiff for injunctive relief, and reasonable attorney's fees.

27. The Defendants are guilty of false, misleading, or deceptive acts or practices against the Plaintiff in violation of the prohibitions of Tex. Bus. & Com. Code Ann. § 17.46(b).

28. Defendants actions were knowing or intentional and they are liable to the Plaintiff for punitive, multiple, statutory and actual damages, attorney's fees and costs.

29. Plaintiff is also entitled, pursuant to the TDCA and the Texas DTPA, to injunctive and declaratory relief against the Defendants.

COUNT THREE

30. Plaintiff repeats and realleges and incorporates by reference paragraphs one through twenty-nine, inclusive, above.

31. The conduct of the Defendants, and each of them, constituted extreme and outrageous conduct. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered intense emotional upset and physical symptoms. As a direct and proximate result of Defendants' conduct, Plaintiff has been damaged in an amount unknown to

1 Plaintiff at the present time, but believed to be in excess of \$10,000.00.

2 32. In doing the acts herein alleged, Defendants acted with oppression, fraud
3 and/or malice, and as a result thereof, Plaintiff is entitled to recover punitive damages.

4 **Prayer for Relief**

5 WHEREFORE, Plaintiff respectfully prays, that judgment be entered against the
6 Defendants for the following:

7 (1) an injunction stopping Defendants from continuing to attempt debt
8 collection in a manner that is violative of the FDCPA, the TDCA and the Texas DTPA and
9 also preventing Defendants from foreclosing on Plaintiff's real property.

10 (2) For general and compensatory damages;

11 (3) For statutory damages pursuant to 15 U.S.C. § 1692k(a) and
12 Tex.Fin.CodeAnn. §392.301(a)(3);

13 (4) For a multiple of actual damages pursuant to Tex.Bus.&Com.Code §17.50;

14 (5) For exemplary damages;

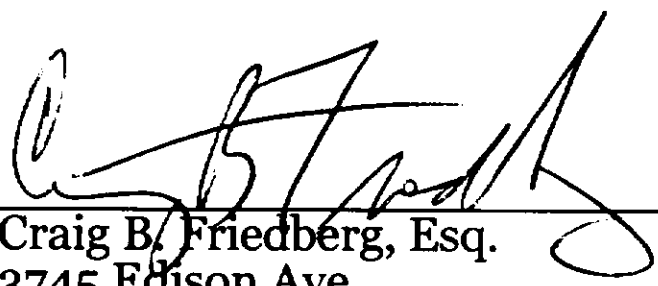
15 (6) For reasonable attorney fees for all services performed by counsel in
16 connection with the prosecution of this claim;

17 (7) For reimbursement for all costs and expenses incurred in connection with
18 the prosecution of this claim; and

19 (8) For any and all other relief this Court may deem appropriate.

20 DATED this 4th day of January 2006.

21
22 Respectfully submitted by:

23
24 
25 Craig B. Friedberg, Esq.
26 3745 Edison Ave.
27 Las Vegas, Nev. 89121
28 Attorney for Plaintiff

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